

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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| MICHAEL E. HILL, | § |
| | § |
| Defendant Below- | § No. 662, 2011 |
| Appellant, | § |
| | § |
| v. | § Court Below—Superior Court |
| | § of the State of Delaware, |
| STATE OF DELAWARE, | § in and for Kent County |
| | § Cr. ID 0403008253 |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: December 21, 2011

Decided: January 17, 2012

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 17th day of January 2012, it appears to the Court that:

(1) On December 6, 2011, the Court received Michael Hill's notice of appeal from a Superior Court order, dated November 4, 2004,¹ denying his motion for modification of sentence. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before December 6, 2004.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing Hill to show cause why the appeal should not be dismissed as

¹ Hill asserts in his notice of appeal that the order being appealed is dated November 4, 2011. The order he attached to the notice of appeal, however, is dated November 4, 2004.

untimely filed.² Hill filed a response to the notice to show cause on December 19, 2011. He asserts that his appeal should not be deemed late because the Superior Court sent him two different orders—one dated November 5, 2011 and one dated November 8, 2011. He contends that his appeal should be deemed timely as to both of these orders.

(3) The State has filed an answer in opposition to Hill's response. The State contends that Hill is simply mistaken as to the date of the Superior Court's order denying his latest motion for correction of sentence. The State asserts, and the Superior Court docket reflects, that Hill filed a motion for correction of illegal sentence on June 2, 2011. The Superior Court denied that motion on October 31, 2011. There are no orders in the Superior Court docket dated November 5, 2011 or November 8, 2011. The State argues that, to the extent Hill is attempting to appeal from the Superior Court's October 31 order, the appeal should be dismissed because Hill failed to file it within the 30 day limitations period.

(4) We agree. Time is a jurisdictional requirement.³ A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.⁴ An appellant's pro se status

²Del. Supr. Ct. R. 6(a)(ii).

³*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

⁴Del. Supr. Ct. R. 10(a).

does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁵ Unless Hill can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁶

(5) There is nothing in this case to reflect that Hill's untimely filing is attributable to the actions of court personnel. Accordingly, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁵*Carr v. State*, 554 A.2d at 779.

⁶*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).